

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

MDL NO. 1456

THIS DOCUMENT RELATES TO:

CIVIL ACTION: 01-CV-12257-PBS

BMS SETTLEMENT AND
TRACK TWO SETTLEMENT

Judge Patti B. Saris

**CLASS PLAINTIFFS' NINTH STATUS REPORT FOR BMS AND
TRACK TWO SETTLEMENTS**

A. Background

On November 30, 2010, the Court issued an Order for Final Consideration of the BMS Settlement (Dkt. No. 7313) and an Order for Final Consideration of the Track Two Settlement (Dkt. No. 7314) (collectively, the "November Orders"). The November Orders directed Class Counsel to provide monthly status reports "detailing the progress" of the BMS and Track 2 Settlements. This is the ninth such report.

B. BMS Settlement

On May 2, 2011, Plaintiffs submitted a revised plan of allocation related to the BMS Settlement (Dkt. No. 7530). The Court held a further hearing regarding final approval of the BMS Settlement on May 5, 2011 and by electronic order preliminarily approved the revised plan of allocation. On May 24, 2011, the Court approved the form of notice to be sent to a limited number of class members (Dkt. No. 7541). Pursuant to the May 24, 2011 Order, mailed notice was sent on May 26, 2011. The Court held a final fairness hearing related to the BMS

Settlement on July 7, 2011. On July 19, 2011 the Court entered an order granting final approval of the BMS Settlement (Dkt. No. 7674).

C. Track Two Proposed Settlement

A final approval hearing was held on June 13, 2011. The Court heard from a number of objectors to the Track Two Settlement. Class Counsel also indicated to the Court the desire to present a revised plan to distribute the settlement proceeds to the Class 1 and Class 3 consumers. Further argument on final approval of the Track Two Settlement was held on July 7, 2011. The Court instructed Counsel to submit additional information and set another hearing for August 8, 2011.

D. The Next Status Report

Pursuant to the November Orders, Class Counsel will submit its next regularly-scheduled Status Report on September 1, 2011.

DATED: August 1, 2011

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CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, **CLASS PLAINTIFF'S NINTH STATUS REPORT FOR BMS AND TRACK TWO SETTLEMENTS**, to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on August 1, 2011, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Steve W. Berman
Steve W. Berman